

REMARKS

Claims 21-27 and 29-43 are canceled without prejudice or disclaimer. Claim 28 is withdrawn from consideration. Claims 1, 10 and 11 are amended. The amendments to claims 1, 10 and 11 are supported by the specification at, e.g., page 6, lines 12-16, and Examples 5 and 6.

It is respectfully submitted that the present amendment presents no new issues or new matter and places this case in condition for allowance. Reconsideration of the application in view of the above amendments and the following remarks is requested.

I. The Rejection of Claims 1-20 under 35 U.S.C. 112

Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph as being indefinite. The Office states that it is not clear what is intended by the step of "predicting the amount of fluorescent marker." The Examiner states that this "prediction" is reasonably interpreted as "forecasting into the future."

Applicants respectfully submit that the step of "predicting the amount of fluorescent marker" is not used in the specification, and would not be interpreted as forecasting into the future. Rather, the term is used to convey that the determination is not a direct measurement of the amount of the fluorescent marker but rather, this measurement is based on a reliable correlation with the amount of light emitted. See, e.g., the specification at page 6, lines 12-16. However, in order to expedite prosecution, Applicants have amended the claims to remove the objectionable term from claims 1, 10 and 11.

For the foregoing reasons, Applicants submit that the claims overcome this rejection under 35 U.S.C. 112. Applicants respectfully request reconsideration and withdrawal of the rejection.

II. The Rejection of Claim 44 under 35 U.S.C. 103(a)

Claim 44 is rejected under 35 U.S.C. 103(a) as unpatentable over McNamara et al. The Office states that McNamara et al. (Figures 4A, 4B, 5A and 5B, etc.) show granular cellular samples, which are granular compositions as recited in the instant claims. This rejection is respectfully traversed.

McNamara et al.'s granular samples are not "granular compositions" as recited by the instant claims. McNamara et al. is directed to methods for *in situ* cellular analysis. Figures 4A, 4B, 5A and 5B, thus, show stains of cells and chromosomes. Cells and chromosomes are not, however, granular compositions. Rather, the granular compositions of the present invention are compositions used for delivering active ingredients, such as, enzymes. See the specification at

page 10, line 29 to page 15, lines 17, discussing the properties and preparation of granules. Thus, McNamara et al. does not teach analysis of "granular compositions" of the claimed invention, and there is no motivation to apply the McNamara et al. cellular analysis process to the analysis of granular composition as recited in the claimed invention.

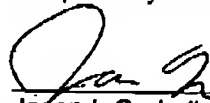
For the foregoing reasons, Applicants submit that the claims overcome this rejection under 35 U.S.C. 103. Applicants respectfully request reconsideration and withdrawal of the rejection.

III. Conclusion

In view of the above, it is respectfully submitted that all claims are in condition for allowance. Early action to that end is respectfully requested. The Examiner is hereby invited to contact the undersigned by telephone if there are any questions concerning this amendment or application.

Respectfully submitted,

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